

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ASIF J. POONJA,)	
individually and on behalf of all others similarly)	
situated,)	
)	
Plaintiffs,)	
)	
v.)	Case No. <u>1:20-cv-04445</u>
)	
FITTRACK, LLC, a Delaware limited liability)	
Company,)	
)	
Defendant.)	

**NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant FitTrack, LLC (“Defendant”), by and through their attorneys, hereby submit this Notice of Removal to the United States District Court for the Northern District of Illinois, Eastern Division, of the above-styled action, pending as Case No. 2020 CH 04651 in the Chancery Division of the Circuit Court for Cook County, Illinois. In support of this petition and as grounds for removal, Defendants state as follows:

1. On June 22, 2020, Plaintiff Asif J. Pooja (“Plaintiff”) filed the Class Action Complaint attached as hereto Exhibit A in the Circuit Court for Cook County, Illinois, County Department, Chancery Division. Summons, attached hereto as Exhibit B, was issued on June 25, 2020. Defendant was served with Summons and the Class Action Complaint on July 1, 2020. No other process, pleadings, or orders have been served upon Defendant in connection with the above-styled action.

2. The Complaint alleges a cause of action against Defendant on the basis that allegedly violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. §227, *et. seq.*

by sending unsolicited commercial text messages to the wireless telephone numbers of Plaintiff and other similarly situated individuals using equipment that constituted an “automatic telephone dialing system.” (¶ 27-32).

3. Title 28 U.S.C. § 1331 states:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

4. This Court has original jurisdiction in this case under 28 U.S.C. § 1331, as this action arises under a “law” of the United States, specifically the TCPA.

5. Title 28 U.S.C. § 1441 states: “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

6. Title 28 U.S.C. § 1446 provides the procedure for such removal, stating in relevant part: “defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal . . . containing a short and plain statement of the grounds for removal” and “if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.”

7. This notice meets the criteria for removal under 28 U.S.C. §§ 1441 and 1446: it contains a short and plain statement of the grounds for removal, and it is timely.

8. Finally, this Court is the proper venue. Title 28 U.S.C. § 1441(a) states that a civil action “may be removed . . . to the district court of the United States for the district and

division embracing the place where such action is pending.” The United States District Court for the Northern District of Illinois, Eastern Division, is the “district and division embracing” Cook County. 28 U.S.C. § 93(a)(1). Therefore, venue properly lies in this Court.

WHEREFORE, for the foregoing reasons, Defendant, FitTrack, LLC, petitions that the above-entitled action be removed and transferred from the Chancery Division of the Circuit Court for Cook County, Illinois, to the United States District Court for the Northern District of Illinois, Eastern Division.

Respectfully Submitted,

By: /s/ Ronald D. Balfour
One of the Attorneys for Defendant

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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the Clerk of the Court and all counsel of record via CM/ECF the Court's Electronic Filing System on July 29, 2020.

/s/ Ronald Balfour